

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO.
04-30066-MAP

SUSAN O'CONNELL,
Plaintiff,

v.

METROPOLITAN LIFE INSURANCE
COMPANY,
Defendant.

**JOINT MOTION TO STAY LITIGATION PENDING REMAND AND OUTCOME OF
FUNCTIONAL CAPACITY EVALUATION**

Plaintiff Susan O'Connell ("O'Connell") and defendant Metropolitan Life Insurance Company ("MetLife") jointly move to stay this case to allow MetLife to remand this matter for the purpose of conducting a functional capacity examination ("FCE") of O'Connell. As grounds for this motion, O'Connell and MetLife state as follows.

1. This claim is brought under the Monarch Life Insurance Company LTD Plan ("Plan") and is governed by the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. §§ 1001 *et seq.*

2. O'Connell has filed suit alleging that MetLife's termination of her benefits was arbitrary and capricious, in part because she was not provided with a sufficient opportunity to participate in a FCE.

3. Pursuant to the Court's scheduling order, O'Connell's motion for summary judgment was due on April 1, 2005, MetLife's response and cross-motion for summary judgment

was due on May 2, 2005, and O'Connell's response to MetLife's cross-motion for summary judgment is due on May 16, 2005.

4. In advance of incurring further expenses associated with litigating this case, the parties have agreed to a remand of this matter for the purpose of conducting a FCE.

5. The parties will provide status reports to the Court every 30 days during the pendency of the requested stay.

WHEREFORE, O'Connell and MetLife jointly move that the case be stayed pending the outcome of MetLife's remand of the case and the FCE.

SUSAN O'CONNELL
By her attorney,

METROPOLITAN LIFE INSURANCE
COMPANY
By its attorneys,

/s/ William G. Cullinan (JLM)

/s/ Johanna L. Matloff

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Dated: May 6, 2005

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